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CPLR 6301: Full Faith and Credit Given Without Regard to Finality

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ARTICLE 63 — INJUNCTION

CPLR 6301: Full Faith and Credit given without regard to finality.

A court's power to affect litigation in the court of a sister state is limited to its power to restrain parties over whom it has jurisdiction. A court never enjoins another court. Practically speaking, however, a restraining order against a party may be viewed as an interference with the jurisdiction of the court in which the party has been enjoined from proceeding and there is danger of sister court retaliation with a counter-injunction. For these reasons a court will rarely enjoin the prosecution of an action in another court.¹³⁹

In *Tinker v. Gorman*,¹⁴⁰ after the plaintiffs had commenced their action in New York to impress a constructive trust on land in Vermont, the defendant brought an action in Vermont to quiet title. The New York plaintiffs (the Vermont defendants) moved in the Vermont action for a stay but this motion was denied. The plaintiffs then moved in the New York action to enjoin the Vermont plaintiff from further proceedings in Vermont.

Viewing the motion as an attempt by plaintiffs to receive a second determination of what had already been decided in Vermont, special term, New York County, denied the motion and gave full faith and credit to Vermont's denial of the stay. The court explained that the mere precedence in time of the New York action was not sufficient to warrant an injunction.¹⁴¹ More significantly, the court recognized that the full faith and credit clause is not limited to final judgments but is applicable to judicial proceedings without limitation as to finality.¹⁴²

Probably the strongest practical reason for the decision is that the land in question was located in Vermont and New York would not wish to interfere with a Vermont court's decision as to Vermont land.

ARTICLE 71 — RECOVERY OF CHATTEL

CPLR 7101: Jus tertii relevant on question of relative possessory interests of parties to action.

Section 1093 of the CPA, which provided for the defense of title in a third person, was omitted from Article 71 of the CPLR, recovery of chattels.¹⁴³

¹³⁹ 7 WEINSTEIN, KORN & MILLER, NEW YORK CIVIL PRACTICE ¶6301.27 (1967).

¹⁴⁰ 56 Misc. 2d 673, 289 N.Y.S.2d 827 (Sup. Ct. N.Y. County 1968).

¹⁴¹ See *Merritt-Chapman & Scott Corp. v. Mutual Benefit Life Ins. Co.*, 237 App. Div. 70, 260 N.Y.S. 374 (1st Dep't 1932).

¹⁴² See *Barber v. Barber*, 323 U.S. 77, 87 (1944).

¹⁴³ See 7A WEINSTEIN, KORN & MILLER, NEW YORK CIVIL PRACTICE ¶7101.06 (1967); 11 CARMODY-WAIT 2d, CYCLOPEDIA NEW YORK PRACTICE ¶82:139 (1967).